

App. No. 10/737,128

Filed December 15, 2003

Amendment dated April 7, 2006 in response to the Final Office Action dated 03/21/2006

Page 6 of 7

### **REMARKS**

In Response to the Final Office Action dated 03/21/2006, Applicant respectfully requests that claim 8 be amended and claims 1-7, 13 and 15 be canceled as indicated in the Listing of Claims above, and that the following remarks be considered.

Applicant asserts that the claims as amended comply with 37 C.F.R. §1.116 such that they are fully supported in the application as originally filed and contain no new matter, and respectfully request reconsideration for the following reasons.

#### **I. Claim Rejections under 35 USC §102(b) – rejection of Claims 1, 3-7 and 15**

Claims 1, 3-7 and 15 are rejected under 35 USC §102(b) as anticipated by Inglis et al., US Pat. # 5,386,826 ("Inglis"). Specifically, the Examiner asserts that Inglis does disclose an obtuse angle bend in its tracheal tube assembly.

As noted above in the Listing of Claims, claims 1, 3-7 and 15 have been canceled. As such, Applicant respectfully requests that this rejection be withdrawn and the remaining claims allowed.

#### **II. Claim Rejections Under 35 USC §103(a) – rejection of Claim 13**

Claim 13 is rejected under 35 USC §103(a) as being unpatentable over Inglis (US Pat. No. 5,386,826) in view of Joseph, US Patent No. 5,582,167 ("Joseph"). The Examiner asserts that it would have been obvious to modify Inglis's invention by providing a distal section that has a beveled terminal end with at least one port opening adjacent thereto, the tube being otherwise imperforate as taught by Joseph in order to make it easier to deliver oxygen or any other medication.

As noted above, claim 13 has been canceled. As such, Applicant respectfully requests that this rejection be withdrawn and the remaining claims be allowed.

#### **III. Claims 17-25 are Allowed**

Applicant respectfully accepts allowance of claims 17-25.

App. No. 10/737,128

Filed December 15, 2003

Amendment dated April 7, 2006 in response to the Final Office Action dated 03/21/2006

Page 7 of 7

#### **IV. Claims 8-12, 14 and 16 are Objected To**

Claims 8-12, 14 and 16 are objected to as being dependent upon a rejected base claim (i.e. claim 1). However, the Examiner asserts that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant has canceled claim 1, from which claim 8 previously depended, and rewritten claim 8 in independent form including all of the limitations of canceled base claim 1. Claims 9-12, 14 and 16 depend from base claim 8, as amended, which the Examiner has indicated is allowable. Applicant therefore respectfully requests that this objection be withdrawn and claims 8-12, 14 and 16 be allowed.

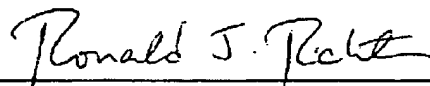
#### **CONCLUSION**

Applicant has addressed each point raised in the Final Office Action dated 03/21/2006 in the present Response. Therefore, Applicant respectfully requests reconsideration of this application in view of the foregoing amendments and remarks, and that remaining claims 8-12, 14, 16-25 be duly allowed. The Examiner is invited to contact the undersigned directly with any questions or remaining issues regarding the pending claims.

Respectfully submitted,

For Applicant MICHAEL J. RUTTER

By:



Ronald J. Richter – Attorney for Applicant

Reg. No. 52,408

Customer No. 38155

(513) 229-0383 – phone

(513) 229-0683 – fax

April 7, 2006